

DEPARTMENT OF DEFENSE

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

48 CFR Ch. II

Improving Government Regulations; Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Defense (DoD).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulatory actions the Department of Defense (DoD) plans to take in the next 12 months and those regulatory actions completed since the publication of the fall 2020 Unified Agenda. It was developed under the guidelines of Executive Order 12866, "Regulatory Planning and Review," and Executive Order 13563, "Improving Regulation and Regulatory Review." This Agenda includes regulatory actions that support the Secretary of Defense's priorities to defend the nation, innovate and modernize DoD, build resilience and readiness, enhance appropriately accountable leadership, and address the current worldwide pandemic. These include efforts to ensure TRICARE beneficiaries have access to the most up-to-date care required for the diagnosis and treatment of COVID-19. Members of the public may submit comments on individual proposed and interim final rulemakings at www.regulations.gov during the comment period that follows publication in the Federal Register.

This agenda updates the report published on December 9, 2020, and includes regulations expected to be issued and under review over the next 12 months. The next agenda will publish in the fall of 2021.

The complete Unified Agenda will be available online at www.reginfo.gov.

Because publication in the Federal Register is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), the Department of Defense's printed agenda entries include only:

(1) rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's agenda requirements. Additional information on these entries is in the Unified Agenda available online.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory program and for general semiannual agenda information, contact Ms. Patricia Toppings, telephone 571-372-0485, or write to Office of the Director of Administration and Management, Directorate for Oversight and Compliance, Regulatory and Advisory Committee Division, 1950 Defense Pentagon, Washington, DC 20301-1950, or e-mail: patricia.l.toppings.civ@mail.mil.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600, telephone 703-693-9958, or e-mail: gerald.j.dziecichowicz.civ@mail.mil.

For general information on Office of the Secretary regulations, other than those which are procurement-related, contact Ms. Patricia Toppings, telephone 571-372-0485, or write to Office of the Director of Administration and Management, Directorate of Oversight and Compliance, Regulatory and Advisory

Committee Division, 1950 Defense Pentagon, Washington, DC 20301-1950, or e-mail:
patricia.l.toppings.civ@mail.mil.

For general information on Office of the Secretary regulations which are procurement-related, contact Ms. Jennifer Johnson, telephone 571-372-6100, or write to Office of the Under Secretary of Defense for Acquisition and Sustainment, Defense Pricing and Contracting, Defense Acquisition Regulations System, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060, or e-mail:
jennifer.d.johnson1.civ@mail.mil.

For general information on Department of the Army regulations, contact Mr. James "Jay" Satterwhite, telephone 571-515-0304, or write to the U.S. Army Records Management and Declassification Agency, ATTN: AAHS-RDO, Building 1458, 9301 Chapek Road, Ft. Belvoir, VA, 22060-5605, or e-mail:
james.w.satterwhite.civ@mail.mil.

For general information on the U.S. Army Corps of Engineers regulations, contact Ms. Stacey Jensen, telephone 703-695-6791, or write to Office of the Assistant Secretary of the Army (Civil Works), 108 Army Pentagon, Room 3E441, Washington, DC 20310-0108, or e-mail: stacey.m.jensen.civ@mail.mil.

For general information on Department of the Navy regulations, contact CDR Katherine Callan, telephone 703-614-7408, or write to Department of the Navy, Office of the Judge Advocate General, Administrative Law Division (Code 13), Washington Navy Yard, 1322 Patterson Avenue SE, Suite 3000, Washington, DC 20374-5066, or e-mail: Katherine.callan@navy.mil.

For general information on Department of the Air Force regulations, contact Bao-Anh Trinh, telephone 703-614-8500, or write the Office of the Secretary of the Air Force, Chief, Information Dominance/Chief Information Officer (SAF CIO/A6), 1800 Air Force Pentagon, Washington, DC 20330-1800, or e-mail:
usaf.pentagon.saf-cio-a6.mbx.af-foia@mail.mil.

For specific agenda items, contact the appropriate individual indicated for each regulatory action.

SUPPLEMENTARY INFORMATION: This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions reports on actions planned by the Office of the Secretary of Defense (OSD), the Military Departments, procurement-related actions, and actions planned by the U.S. Army Corps of Engineers.

This agenda also identifies rules impacted by the:

- a. Regulatory Flexibility Act.
- b. Paperwork Reduction Act of 1995.
- c. Unfunded Mandates Reform Act of 1995.

Generally, rules discussed in this agenda will contain five sections: (1) prerule stage; (2) proposed rule stage; (3) final rule stage; (4) completed actions; and (5) long-term actions. Where certain regulatory actions indicate that small entities are affected, the effect on these entities may not necessarily have significant economic impact on a substantial number of these entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)).

The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 U.S.C. and section 3 of Executive Order 12866.

DATED: March 17, 2021.

NAME: Hon. Kathleen H. Hicks,

Deputy Secretary of Defense.

Defense Acquisition Regulations Council—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1	Small Business Innovation Research Program Data Rights (DFARS Case 2019-D043)	0750-AK84
2	Reauthorization and Improvement of Mentor-Protege Program (DFARS Case 2020-D009)	0750-AK96

Defense Acquisition Regulations Council—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3	Assessing Contractor Implementation of Cybersecurity Requirements (DFARS Case 2019-D041)	0750-AK81

Defense Acquisition Regulations Council—Completed Actions

Sequence Number	Title	Regulation Identifier Number
4	Covered Telecommunications Equipment or Services (DFARS Case 2018-D022)	0750-AJ84
5	Justification and Approval Thresholds for 8(a) Contracts (DFARS	0750-AK93

	Case 2020-D006)	
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Office of Assistant Secretary for Health Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
6	TRICARE: Chiropractic and Acupuncture Treatment Under the TRICARE Program	0720-AB77

Department of Defense (DOD)	Proposed Rule Stage
Defense Acquisition Regulations Council (DARC)	

1. SMALL BUSINESS INNOVATION RESEARCH PROGRAM DATA RIGHTS (DFARS CASE 2019-D043) [0750-AK84]

Legal Authority: 41 U.S.C. 1303

Abstract: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement changes related to data rights in the Small Business Administration’s Policy Directive for the Small Business Innovation Research (SBIR) Program, published in the Federal Register on April 2, 2019 (84 FR 12794). The final SBA Policy Directive includes several revisions to clarify data rights, which require corresponding revisions to the DFARS.

Timetable:

Action	Date	FR Cite
ANPRM	08/31/20	85 FR 53758
Correction	09/21/20	85 FR 59258

ANPRM Comment Period End	10/30/20	
Comment Period Extended	12/04/20	85 FR 78300
ANPRM Comment Period End	01/31/21	
NPRM	06/00/21	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Jennifer Johnson, Defense Acquisition Regulations System, Department of Defense,
Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B941, Washington, DC
20301-3060

Phone: 571 372-6100

Email: jennifer.d.johnson1.civ@mail.mil

RIN: 0750-AK84

2. REAUTHORIZATION AND IMPROVEMENT OF MENTOR-PROTEGE PROGRAM (DFARS CASE 2020-D009) [0750-AK96]

Legal Authority: 41 U.S.C. 1303; Pub. L. 116-92, sec. 872

Abstract: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement to implement section 872 of the National Defense Authorization Act for Fiscal Year 2020, which reauthorizes and modifies the DoD Mentor-Protege Program.

Timetable:

Action	Date	FR Cite
NPRM	05/00/21	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Jennifer Johnson, Defense Acquisition Regulations System, Department of Defense,
Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B941, Washington, DC
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RIN: 0750-AK96

Department of Defense (DOD)	Final Rule Stage
Defense Acquisition Regulations Council (DARC)	

**3. ASSESSING CONTRACTOR IMPLEMENTATION OF CYBERSECURITY REQUIREMENTS (DFARS
CASE 2019-D041) [0750-AK81]**

Legal Authority: 41 U.S.C 1303; Pub. L. 116-92, sec. 1648

Abstract: DoD is issuing a final rule to finalize an interim rule that amended the Defense Federal Acquisition Regulation Supplement to implement the following methodology and framework in order to protect against the theft of intellectual property and sensitive information from the Defense Industrial Base (DIB) sector:

- *The National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171 DoD Assessment Methodology* . A standard methodology to assess contractor implementation of the cybersecurity requirements in NIST SP 800-171, Protecting Controlled Unclassified Information (CUI) In Nonfederal Systems and Organizations.
- *The Cybersecurity Maturity Model Certification (CMMC) Framework* . A DoD certification process that measures a company's institutionalization of processes and implementation of cybersecurity practices.

This rule provides the Department with: (1) the ability to assess at a corporate level a contractor's implementation of NIST SP 800-171 security requirements, as required by DFARS clause 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting; and (2) assurances that a DIB contractor can adequately protect sensitive unclassified information at a level commensurate with the risk, accounting for information flow down to its subcontractors in a multi-tier supply chain.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/29/20	85 FR 48513
Interim Final Rule Effective	11/30/20	
Final Action	09/00/21	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Jennifer Johnson, Defense Acquisition Regulations System, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B941, Washington, DC 20301-3060

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Email: jennifer.d.johnson1.civ@mail.mil

RIN: 0750-AK81

Department of Defense (DOD)	Completed Actions
Defense Acquisition Regulations Council (DARC)	

4. COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES (DFARS CASE 2018-D022)

[0750-AJ84]

Legal Authority: 41 U.S.C. 1303; Pub. L. 115-91, sec. 1656

Abstract: DoD issued a final rule to finalize an interim rule that amended the Defense Federal Acquisition Regulation Supplement to implement section 1656 of the National Defense Authorization Act for Fiscal Year 2018. Section 1656 provides that DoD may not procure or obtain or extend or renew a contract to provide or obtain any equipment, system, or service to carry out the DoD nuclear deterrence mission or the DoD homeland defense mission that uses covered telecommunications equipment or services as a substantial or essential component of any system or as a critical technology as a part of any system. Covered telecommunications equipment or services means telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation, or any subsidiary or affiliate of such entities; telecommunication services provided by such entities or using such equipment; or telecommunications equipment or services produced or provided by an entity that the Secretary of Defense reasonably believes to be an entity owned or controlled by, or otherwise connected to, the governments of China or Russia.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/31/19	84 FR 72231
Interim Final Rule Effective	12/31/19	
Interim Final Rule Comment Period End	03/02/20	
Final Action	01/15/21	86 FR 3832
Final Action Effective	01/15/21	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Jennifer Johnson, Defense Acquisition Regulations System, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B941, Washington, DC 20301-3060

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RIN: 0750-AJ84

5. JUSTIFICATION AND APPROVAL THRESHOLDS FOR 8(A) CONTRACTS (DFARS CASE 2020-D006) [0750-AK93]

Legal Authority: 41 U.S.C. 1303; Pub. L. 116-92, sec. 823

Abstract: DoD issued a final rule amending the Defense Federal Acquisition Regulation Supplement to implement section 823 of the National Defense Authorization Act for Fiscal Year 2020. Section 823, the increases the threshold for requiring a justification and approval to award a sole source contract under the 8(a) program to \$100 million and updates the associated approval authorities when a procurement exceeds the threshold.

Timetable:

Action	Date	FR Cite
Final Action	06/05/20	85 FR 34528
Final Action Effective	06/05/20	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Jennifer Johnson, Defense Acquisition Regulations System, Department of Defense, Defense Acquisition Regulations Council, 3060 Defense Pentagon, Room 3B941, Washington, DC 20301-3060

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RIN: 0750-AK93

Department of Defense (DOD)	Proposed Rule Stage
Office of Assistant Secretary for Health Affairs (DODOASHA)	

6. TRICARE: CHIROPRACTIC AND ACUPUNCTURE TREATMENT UNDER THE TRICARE PROGRAM [0720-AB77]

Legal Authority: 5 U.S.C. 301; 10 U.S.C. ch. 55

Abstract: Under the current regulations, TRICARE excludes chiropractors as TRICARE-authorized providers whether or not their services would be eligible as medically necessary care if furnished by any other authorized provider. In addition, the current regulation excludes acupuncture treatment whether used as a therapeutic agent or as an anesthetic. This proposed rule seeks to eliminate these exclusions and to add benefit coverage of chiropractic and acupuncture treatment when deemed medically necessary for specific conditions. This rule proposes to add licensed Doctors of Chiropractic (DCs) and Licensed Acupuncturists (LACs) who meet established qualifications as TRICARE-authorized providers and will establish reimbursement rates and cost-sharing provisions for covered chiropractic and acupuncture treatment.

Timetable:

Action	Date	FR Cite
NPRM	07/00/21	

Regulatory Flexibility Analysis Required: Yes

Agency Contact: Joy Mullane, Department of Defense, Office of Assistant Secretary for Health Affairs, 16401 E. Centretch Parkway, Aurora, CO 80011-9066

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RIN: 0720-AB77

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